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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Implementation of Section 8 of the )  
Cable Television Consumer Protection )  
and Competition Act of 1992 )

Consumer Protection and Customer Service )

MM Docket No. 92-263

JOINT REPLY COMMENTS OF FIVE RURAL TELEPHONE/CABLE COMPANIES

The rural telephone companies identified below<sup>1</sup> (the "Companies" or "Joint Commenters") by counsel and pursuant to Section 1.415(a) of the Commission's Rules and Notice of Proposed Rulemaking, MM Docket No. 92-263, FCC 92-541, released December 11, 1992, hereby submit their Reply Comments with respect to the Commission's proposed standards governing cable customer service.

Preliminary Statement

The Commission instituted this proceeding to implement Section 8 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"). The Companies are rural telephone companies which provide cable service to their communities pursuant to Section 613(b)(3) of the Communications Act of 1934, as amended. The Companies serve sparsely populated, primarily rural areas, which may not otherwise have access to cable service, or, at least, would have received cable service on a delayed basis. The Joint

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<sup>1</sup> The Companies are Moultrie Telecommunications, Inc., Lovington, Illinois; RGA Cable, Toledo, Washington; Video Inc., Bay Springs, Mississippi; Cross Cable Television, Inc., Warner, Oklahoma; and Springcom, Inc., Springport, Michigan.

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Commenters generally support the position expressed by other parties<sup>2</sup> in this proceeding that the Commission should either take into account the unique needs of small cable system operators when adopting customer service standards, or exempt small cable system operators from these standards. However, the Companies further propose that the Commission expressly exempt telephone companies operating cable systems pursuant to the rural system exemption from any customer service standards adopted in this proceeding.

### Discussion

#### I. FEDERAL STANDARDS SHOULD RECOGNIZE THE NEED FOR CABLE OPERATOR FLEXIBILITY AND SHOULD EXEMPT SMALL SYSTEMS

The Companies agree with the Consortium that although the 1992 Cable Act requires the Commission to adopt minimum customer service standards, Congress did not intend that the FCC unilaterally impose general federal standards on all cable systems. Given that the primary thrust of the 1992 Cable Act is the stabilization of cable rates and the prevention of "unwarranted" cable rate increases,<sup>3</sup> the standards adopted by the Commission should be the absolute minimum necessary to ensure reasonable service. The 1992 Cable Act also authorizes franchising authorities to promulgate and enforce their own customer service requirements. However, requiring cable operators to comply with both the federal and the local customer service standards would impose an unnecessary burden on cable systems. Thus, cable operators should be free to elect to meet the Commission standards and be deemed to have fulfilled their

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<sup>2</sup> See, e.g., Comments of the Coalition of Small System Operators ("Coalition") and Comments of the Consortium of Small Cable Systems Operators ("Consortium").

<sup>3</sup> Coalition Comments at page 5.

customer service requirements,<sup>4</sup> or be allowed to meet the requirements of only the franchising authority. This will allow cable operators to work with the franchising authorities to take into account all relevant circumstances, including the unique operational and financial limitations faced by small system operators, in order to tailor standards which balance the need for reasonable rates with the need for appropriate customer service.<sup>5</sup>

While the 1992 Cable Act, 47 U.S.C. § 543(i), requires that the Commission consider the need to reduce the administrative burdens of small systems (those with fewer than 1,000 subscribers) in the area of rate regulation, a similar exemption for small systems should be provided with respect to the customer service standards whether those standards are adopted by the FCC or derive from local franchisors. Further, the Companies agree with the Consortium that exemption eligibility from the service standards should be available to cable companies with as many as 10,000 subscribers, rather than only to companies with fewer than 1,000 subscribers as in the case of rate regulation.<sup>6</sup> The relatively high per-customer costs of rural cable service do not end at subscriber number 1,001; therefore, the Commission should adopt a higher cut-off.

## II. TELEPHONE COMPANIES OFFERING CABLE SERVICE SHOULD BE EXEMPTED ON SEPARATE GROUNDS

By granting cable service exemptions to rural telephone companies the Commission has recognized that provision of cable service by these companies serves the public interest by

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<sup>4</sup> Section 8 of the Cable Act of 1992 requires the Commission to "establish standards by which cable operators *may* fulfill their customer service requirements." Accordingly, cable operators should have the option of meeting the Commission's standards, notwithstanding any locally promulgated standards.

<sup>5</sup> The standards adopted by the Commission should also take account of these factors.

<sup>6</sup> The Consortium proposed that the term "small system" be defined for the purposes of the customer service provision of the Cable Act of 1992 to include those systems with (a) no more than 10,000 subscribers or (b) annual gross revenues of \$7.5 million or less.

encouraging the extension of cable service into areas which otherwise may go unserved due to extraordinarily high per-customer costs. As discussed above, the adoption of stringent customer service obligations will increase the cost of providing cable service. The lower the number of subscribers, the greater the per-subscriber potential increase - or loss of service altogether. Therefore, regardless of the number of subscribers, provision of service by rural telcos should not be threatened by the addition of service requirements without any corresponding public benefit and should be exempt from new service obligations that are inconsistent with the rationale upon which they were authorized to provide cable service in the first instance.

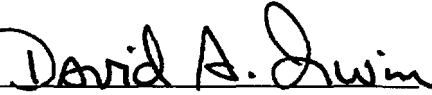
### Conclusion

Small cable systems provide greatly needed service to their communities, and have endeavored in the past to respond to customer needs in the most expeditious manner possible. In many cases, these operators have negotiated customer service standards with the local franchising authority to balance the need for responsive customer service with the need for reasonable cable rates. Such arrangements should not be disturbed by the Commission.

Further, small systems should be exempted from any federally-mandated standards promulgated as a result of this proceeding, or any standards subsequently adopted by local franchising agencies, in recognition of their special circumstances. The local franchising authority and the cable operator should be allowed to work together to determine the correct balance of cable rates and customer service. Such forbearance is especially appropriate for

companies providing local exchange telephone service in addition to cable service, as the telephone component of these companies' service is often regulated at the local or state level. Finally, regardless of any other action taken in this proceeding, the Commission should exempt from mandated customer service requirements any cable systems which are operated by telephone companies pursuant to a rural service exemption.

Respectfully submitted,  
JOINT COMMENTERS

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January 26, 1993

## **CERTIFICATE OF SERVICE**

I, Lorena L. Ferry, hereby certify that on this 26th day of January, 1993, copies of the foregoing "Joint Reply Comments of Five Rural Telephone/Cable Companies" have been served either by hand delivery or first-class United States mail, postage prepaid, upon the following:

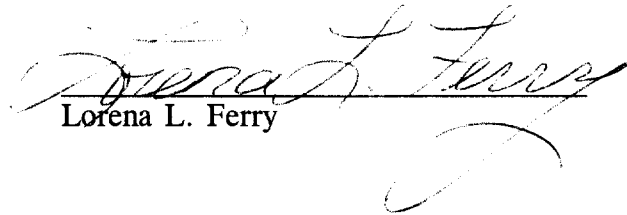
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